



**OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN**

**GERALD C. MANN
ATTORNEY GENERAL**

**Hon. R. C. Wilson
County Auditor
Gray County
Pampa, Texas**

Dear Sir:

Opinion No. 0-1975

**Re: Would payment of premiums for
insurance on the courthouse
be a proper charge against the
Permanent Improvement Fund?**

**Your request for an opinion on the above
stated question has been received by this department.**

We quote from your letter as follows:

**"We have been unable to find either
comprehensive opinions from the office of
the Attorney General or decisions from the
higher courts relative to expenses that may
properly be paid from the Permanent Improve-
ment Fund. Apparently, the general assump-
tion has been that additions, major repairs
and alterations, i.e., permanent partitions,
painting, furniture, repairs to heating and
plumbing, and lighting systems, roofing,
etc., would be proper charges against this
fund.**

**"An opinion, dated August 9, 1939, by
the Honorable J. A. Broadhurst, Assistant
Attorney General, holds that adding machines,
typewriters, deed records, rebinding perman-
ent records and sewing machines for sewing
room may not be purchased with Permanent
Improvement Funds. We assume that this pro-
hibition would also be applicable to refriger-
ation or any other equipment not a part of the
building. (underscored date is an error)**

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"Would payment of premiums for insurance on the courthouse be a proper charge against this fund?"

In this opinion we are not attempting to pass upon or set out all the expenses that may properly be paid from the permanent improvement fund or those expenses which cannot be paid from such fund. We are only answering your specific question contained in your inquiry. However, in compliance with your request we are enclosing copies of our opinions Nos. 0-1647, 0-1069, 0-1082, 0-93, 0-37, 0-1810 and 0-629, regarding expenses which may or may not be properly paid from the permanent improvement fund.

If the enclosed copies of the above mentioned opinions and this opinion do not answer any specific questions you have in mind, we will be glad to render an opinion on any specific question you desire to direct to this department.

Section 9 of Article 8 of the Texas Constitution reads as follows:

"The State tax on property, exclusive of the tax necessary to pay the public debt, and of the taxes provided for the benefit of the public free schools, shall never exceed thirty-five cents on the one hundred dollars valuation; and no county, city or town shall levy more than twenty-five cents for city or county purposes, and not exceeding fifteen cents for roads and bridges, and not exceeding fifteen cents to pay jurors, on the one hundred dollars valuation, except for the payment of debts incurred prior to the adoption of the amendment September 25th, 1883; and for the erection of public buildings, streets, sewers, water works and other permanent improvements, not to exceed twenty-five cents on the one hundred dollars valuation, in any one year, and except as is in this Constitution otherwise provided; and the Legislature may also authorize an additional annual ad valorem tax to be levied and collected for the further maintenance of the public

roads; provided, that a majority of the qualified property tax-paying voters of the county voting at an election to be held for that purpose shall vote such tax, not to exceed fifteen cents on the one hundred dollars valuation of the property subject to taxation in such county. And the Legislature may pass local laws for the maintenance of the public roads and highways, without the local notice required for special or local laws."

The above quoted provision of the Constitution prescribed the maximum rate of taxes for general purposes, for roads and bridges, for jurors, and for permanent improvements, respectively. The monies accruing from taxes levied and collected for each of the enumerated purposes are constitutional funds; and the commissioners' court has no power or authority to transfer money from one fund to another or to expend for one purpose tax money raised ostensibly for another purpose.

The immediate purpose of the above mentioned provision of the Constitution is to limit the amount of taxes that may be raised for these several purposes, respectively; but it is also intended to inhibit excessive expenditures for any such purpose, and to require that any and all monies raised by taxation for a particular purpose shall be applied to that purpose and to no other. *Ault vs. Hale County*, 116 SW 359; *Henderson County vs. Burke*, 252 SW 94.

The case of *Carroll vs. Williams*, 202 SW 504, holds, among other things, that the Constitution contemplates that, as a matter of common honesty and fair dealing, tax money taken from the people ostensibly for one purpose shall be expended for that purpose alone, as well as the tax rate, for that particular class, shall not exceed the prescribed maximum.

In view of the foregoing authorities, you are respectfully advised that it is the opinion of this de-

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partment that the payment of premiums for insurance on the courthouse cannot be legally paid from the Permanent Improvement Fund. The payment of premiums for insurance on a courthouse would be an expenditure for a general purpose of the county and, therefore, such expenditure should be paid out of the General Fund.

Trusting that the foregoing fully answers your inquiry, we remain

Yours very truly

ATTORNEY GENERAL OF TEXAS

By *Ardell Williams*

Ardell Williams
Assistant

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ENCLOSURES

APPROVED MAR 12, 1940

Gerald C. Mann

ATTORNEY GENERAL OF TEXAS

